

IV.C.3. Use of Outside Experts

Introduction

Outside experts are another source of assistance for the development of cases involving abusive corporate tax shelter issues. Such experts can provide consulting services, valuation services, actuarial services, economic analysis services, software analysis services, financial analysis services and more. They can provide help at the examination level, the appeals level and the trial level. The use of outside experts is justified in special situations such as cases involving high impact precedent setting issues, high dollar unagreed issues, high impact compliance issues, and significant issues where in house expertise is limited or not available.

With specific regard to abusive corporate tax shelters, experts are presently being used in a number of issue areas such as performing asset valuations and economic analysis on lease-in/lease-out transactions (LILOs); asset valuations and economic analysis on lease-strip transactions; asset valuations on creative transfer pricing issues under IRC §§482 and 936, actuarial analyses for corporate owned life insurance (COLI) transactions; and consulting services on various other issues where lack of economic substance is a primary concern.

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IV.C.3. Use of Outside Experts, Continued

Outside Fee Program

Outside experts are obtained on a contract basis through the Service's Outside Fee Program, which is described in detail on the [Engineers' LMSB Web Site](#) or in [IRM 4.3.16.1.6](#) (at page 9) .

The Outside Fee Program within LMSB is coordinated by the Office of Field Specialists and is administered by a program analyst who is specifically charged with its operation. Funding for requisitions of outside experts to provide assistance at the examination level is a limited LMSB resource that is available for appropriate use by all examination functions within LMSB.

At the field level, the coordination of the program is one of the responsibilities of local engineer team managers, who administer the program within the geographic areas that they serve. The local engineer manager is responsible for determining if outside experts will be used at the examination level for assistance on engineering issues and consults with appropriate examination personnel in regard to determining the appropriateness of involving outside expertise on other types of issues. A key to this decision is the type of issue involved and the availability of inside expertise to work the issue in a timely and comprehensive manner.

Locating and Selecting Outside Experts

The engineer assigned to your case is expected to take the lead in the identification of experts. It is beneficial for all agents involved with the issue in question plus assigned Counsel to assist in this process.

Procurement should also be consulted as they maintain a listing of experts formerly used by the Service. This listing can be searched by type of expertise. Past performance data is maintained on some of the experts. Likewise, Counsel has similar data.

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IV.C.3. Use of Outside Experts, Continued

**Approval of
Outside
Experts –
Contracts Less
Than \$100,000 -
Engineering
Territory
Managers**

As presently structured within LMSB, two different approval paths for the obtaining of the services of an outside expert exist depending upon the dollar amount of the contract to be awarded.

If the contract amount is less than \$100,000, the approving authority is the Engineer Territory Manager in whose territory the requesting case lies. At the beginning of each budget year each Engineer Territory Manager is allocated funding for contract awards within his or her territory. As long as funding remains available from this allocation during the year, the Territory Manager can approve requests submitted through the local Engineer Team Managers.

In approving contracts less than \$100,000, the Engineering Territory Manager shall consider whether qualified in house expertise is available to timely work the issue in a cost efficient basis, as well as the equitable allocation of available funds to all LMSB customers.

**Approval of
Outside
Experts –
Contracts More
Than \$100,000 -
National
Committee**

If the contract amount is \$100,000 or more, LMSB has established a National Committee whose responsibility it is to approve funding for outside experts. The Committee is composed of representatives from each of the LMSB Industries (Divisions), from Pre-filing & Technical Guidance, Counsel, Economists and from the Engineer Program.

Refer to the following link to the [Engineers' LMSB Website](#) for additional information regarding the National Committee.

**Counsel
Involvement
and
Recommendation**

Requisitions with a total estimated cost of \$50,000 or more will require a written recommendation from Counsel that Counsel concurs with the need to hire outside experts at the examination level. This recommendation should explain why Counsel supports the use of outside experts rather than the use of in-house experts.

**Outside Fee
Request
Submission
Procedures**

The engineer assigned to the case is responsible for the preparation and processing of the outside fee request submission materials. In complex cases, the preparation of the submission should be a team effort.

For additional information regarding the outside fee request submission procedures, refer to the following link to the [Engineers' LMSB Website](#).
